

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1978

Introduced by Assembly Member Jones-Sawyer

February 19, 2014

~~An act to amend Section 11155.5 of the Welfare and Institutions Code, relating to public social services. An act to amend Sections 10601.2 and 10850.4 of, and to add Section 10605.5 to, the Welfare and Institutions Code, relating to child welfare services.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1978, as amended, Jones-Sawyer. ~~Foster care. Child welfare services.~~

Under existing law, the State Department of Social Services oversees the administration of county public social services, including child welfare services. Existing law requires the department to establish the California Child and Family Service Review System, in order to review all county child welfare systems.

This bill, in relation to these reviews, would require each county to consult with specified stakeholders in developing the county self-assessments and county improvement plans, or any subsequent county self-assessments, as specified. The bill would also require the county improvement plans to include a separately titled provision that lists and provides the rationale for proposed operational improvements that may be implemented at a cost savings to the county or within existing resources. By increasing duties of county officials, the bill would impose a state-mandated local program.

Existing law authorizes the department to conduct or have conducted audits and reviews in order to meet its obligations for child welfare programs and to ensure the protection of children and families.

This bill would prohibit a county child welfare agency that is an employer of social workers engaged in providing child welfare services from retaliating against a social worker if the social worker has reasonable cause to believe that a policy, procedure, or practice related to the provision of child welfare services endangers the health or well-being of a child or children, and the social worker discloses this information to a government or law enforcement agency, an appointed or elected official, or the public.

Existing law authorizes the department and the county welfare department or agency to comment on a child fatality once certain documents from the child's case file have been released by the custodian of records, within the scope of the release.

This bill would additionally authorize a county child welfare social worker to comment for purposes of these provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law states the Legislature's finding and declaration that the foundation and central unifying tool in child welfare services is the case plan and requires, when appropriate, for a child who is 16 years of age or older and, commencing January 1, 2012, for a nonminor dependent, the case plan to, among other things, include the transitional independent living plan, which describes the goals and objectives of how the child or nonminor will make progress in the transition to living independently and assume incremental responsibility for adult decision making. Existing law authorizes a child who is declared a ward or dependent child of the court who is 16 years of age or older, or a nonminor dependent, as defined, who is participating in a transitional independent living case plan to retain specified cash resources and still remain eligible to receive public social services.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) *This act shall be known as the Child Welfare*
2 *Social Worker Empowerment and Foster Child Protection Act.*

3 (b) *The Legislature finds and declares that, while California*
4 *foster children are in foster care, they are uniquely dependent*
5 *upon the lawful, efficient, and competent delivery of state and local*
6 *government services and implementation of state and federal law.*

7 (c) *The Legislature further finds and declares that the special*
8 *and uniquely vulnerable status of foster children warrants*
9 *extending whistleblower protections for state employees to county*
10 *child welfare social workers to ensure that each worker, without*
11 *fear of retaliation, can advocate for policies that benefit every*
12 *child and publicly participate in discussions about each child's*
13 *wellbeing.*

14 (d) *The Legislature further finds and declares that county child*
15 *welfare social workers who implement state and federal policy*
16 *related to the delivery of services and implementation of programs*
17 *benefitting foster children should have an avenue to suggest*
18 *cost-saving efficiencies in the delivery of services to foster children,*
19 *in a fashion that is transparent and accountable to the public.*

20 SEC. 2. *Section 10601.2 of the Welfare and Institutions Code*
21 *is amended to read:*

22 10601.2. (a) *The State Department of Social Services shall*
23 *establish, by April 1, 2003, the California Child and Family Service*
24 *Review System, in order to review all county child welfare systems.*
25 *These reviews shall cover child protective services, foster care,*
26 *adoption, family preservation, family support, and independent*
27 *living.*

28 (b) *Child and family service reviews shall maximize compliance*
29 *with the federal regulations for the receipt of money from Subtitle*
30 *E (commencing with Section 470) of Title IV of the federal Social*
31 *Security Act (42 U.S.C. Sec. 670 and following) and ensure*
32 *compliance with state plan requirements set forth in Subtitle B*
33 *(commencing with Section 421) of Title IV of the federal Social*
34 *Security Act (42 U.S.C. Sec. 621 and following).*

(c) (1) (A) The California Health and Human Services Agency shall convene a workgroup comprised of representatives of the Judicial Council, the State Department of Social Services, the State Department of Health Care Services, the State Department of Education, the State Department of Justice, any other state departments or agencies the California Health and Human Services Agency deems necessary, the County Welfare Directors Association, the California State Association of Counties, the Chief Probation Officers of California, the California Youth Connection, and representatives of California tribes, interested child advocacy organizations, researchers, and foster parent organizations. The workgroup shall establish a workplan by which child and family service reviews shall be conducted pursuant to this section, including a process for qualitative peer reviews of case information.

(2)

(B) At a minimum, in establishing the workplan, the workgroup shall consider any existing federal program improvement plans entered into by the state pursuant to federal regulations, the outcome indicators to be measured, compliance thresholds for each indicator, timelines for implementation, county review cycles, uniform processes, procedures and review instruments to be used, a corrective action process, and any funding or staffing increases needed to implement the requirements of this section. The agency shall broadly consider collaboration with all entities to allow the adequate exchange of information and coordination of efforts to improve outcomes for foster youth and families.

(2) In developing county self-assessments and county improvement plans pursuant to this section, or any subsequent county self-assessments pursuant to this section, each county shall consult with stakeholders, including, but not limited to, county child welfare agencies and probation agency staff at all levels, current and former foster children, children's attorneys, and foster care providers. The county shall consult with at least one county child welfare worker named by the bargaining unit representing children's social workers.

(d) (1) The California Child and Family Service Review System outcome indicators shall be consistent with the federal child and family service review measures and standards for child and family outcomes and system factors authorized by Subtitle B (commencing with Section 421) and Subtitle E (commencing with Section 470)

1 of Title IV of the federal Social Security Act and the regulations
2 adopted pursuant to those provisions (Parts 1355 to 1357, inclusive,
3 of Title 45 of the Code of Federal Regulations).

4 (2) During the first review cycle pursuant to this section, each
5 county shall be reviewed according to the outcome indicators
6 established for the California Child and Family Service Review
7 System.

8 (3) For subsequent reviews, the workgroup shall consider
9 whether to establish additional outcome indicators that support the
10 federal outcomes and any program improvement plan, and promote
11 good health, mental health, behavioral, educational, and other
12 relevant outcomes for children and families in California's child
13 welfare services system.

14 (4) The workgroup shall convene as necessary to update the
15 outcome indicators described in paragraph (1).

16 (5) *The county improvement plans developed pursuant to this*
17 *section that are approved by the county board of supervisors shall*
18 *include a separately titled provision that lists and provides the*
19 *rationale for proposed operational improvements identified during*
20 *the stakeholder process described in paragraph (2) of subdivision*
21 *(c) that may be implemented at a cost savings to the county or*
22 *within existing county resources.*

23 (e) The State Department of Social Services shall identify and
24 promote the replication of best practices in child welfare service
25 delivery to achieve the measurable outcomes established pursuant
26 to subdivision (d).

27 (f) ~~The~~ *Notwithstanding Section 10231.5 of the Government*
28 *Code, the State Department of Social Services shall provide*
29 *information to the Assembly Committee on Budget and the Senate*
30 *Committee on Budget—Committees and Fiscal Review and*
31 *appropriate legislative policy committees annually, beginning with*
32 *the 2002–03 fiscal year, on all of the following:*

33 (1) The department's progress in planning for the federal child
34 and family service review to be conducted by the United States
35 Department of Health and Human Services and, upon completion
36 of the federal review, the findings of that review, the state's
37 response to the findings, and the details of any program
38 improvement plan entered into by the state.

39 (2) The department's progress in implementing the California
40 child and family service reviews, including, but not limited to, the

1 timelines for implementation, the process to be used, and any
2 funding or staffing increases needed at the state or local level to
3 implement the requirements of this section.

4 (3) The findings and recommendations for child welfare system
5 improvements identified in county self-assessments and county
6 system improvement plans, including information on common
7 statutory, regulatory, or fiscal barriers identified as inhibiting
8 system improvements, any recommendations to overcome those
9 barriers, and, as applicable, information regarding the allocation
10 and use of the moneys provided to counties pursuant to subdivision
11 (i).

12 (g) Effective April 1, 2003, the existing county compliance
13 review system shall be suspended to provide to the State
14 Department of Social Services sufficient lead time to provide
15 training and technical assistance to counties for the preparation
16 necessary to transition to the new child and family service review
17 system.

18 (h) Beginning January 1, 2004, the department shall commence
19 individual child and family service reviews of California counties.
20 County child welfare systems that do not meet the established
21 compliance thresholds for the outcome measures that are reviewed
22 shall receive technical assistance from teams made up of state and
23 peer-county administrators to assist with implementing best
24 practices to improve their performance and make progress toward
25 meeting established levels of compliance.

26 (i) (1) To the extent that funds are appropriated in the annual
27 Budget Act to enable counties to implement approaches to
28 improving their performance on the outcome indicators under this
29 section, the department, in consultation with counties, shall
30 establish a process for allocating the funds to counties.

31 (2) The allocation process shall take into account, at a minimum,
32 the extent to which the proposed funding would be used for
33 activities that are reasonably expected to help the county make
34 progress toward the outcome indicators established pursuant to
35 this section, and the extent to which county funding for the Child
36 Abuse, Prevention and Treatment program is aligned with the
37 outcome indicators.

38 (3) To the extent possible, a county shall use funds in a manner
39 that enables the county to access additional federal, state, and local
40 funds from other available sources. However, a county's ability

1 to receive additional matching funds from these sources shall not
2 be a determining factor in the allocation process established
3 pursuant to this subdivision.

4 (4) The department shall provide information to the appropriate
5 committees of the Legislature on the process established pursuant
6 to this subdivision for allocating funds to counties.

7 (j) (1) Counties shall continue to be responsible for and
8 accountable to the department for child welfare program
9 performance measures, including all of the following:

10 (A) The outcome and systemic factor measures contained in the
11 federal Department of Health and Human Services Child and
12 Family Services Review Procedures Manual, Appendix B, Index
13 of Outcomes and Systemic Factors, and Associated Items and Data
14 Indicators, issued pursuant to Sections 1355.34(b) and 1355.34(c)
15 of Title 45 of the Code of Federal Regulations.

16 (B) Information and other requirements necessary for the
17 California Child and Family Service Review System, as required
18 pursuant to this section.

19 (C) Monthly caseworker visits with a child in care.

20 (D) Timeliness to begin an investigation of allegations of child
21 abuse or neglect.

22 (E) Notwithstanding the rulemaking provisions of the
23 Administrative Procedure Act (Chapter 3.5 (commencing with
24 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
25 Code), other performance measures resulting from new federal
26 mandates or court decrees as specified in an all-county letter issued
27 by the department.

28 (2) The department shall monitor, on an ongoing basis, county
29 performance on the measures specified in paragraph (1).

30 (3) At least once every five years, the department shall conduct
31 a comprehensive review of county performance on the measures
32 specified in paragraph (1).

33 (4) (A) The department shall periodically update the process
34 guides utilized by counties to prepare the self assessments and
35 system improvement plans to promote implementation and
36 evaluation of promising practices and use of data.

37 (B) The process guides also shall include, but not be limited to,
38 both of the following:

1 (i) County evaluation of demographics for the children and
2 families served and effectiveness of the system improvement
3 activities for these populations.

4 (ii) A description of the process by which the department and
5 counties shall develop mutually agreed upon performance targets
6 for improvement.

7 (5) The department, in consultation with counties, shall develop
8 a process for resolving any disputes regarding the establishment
9 of appropriate targets pursuant to the process provided in paragraph
10 (4).

11 (6) A county shall submit an update to the department, no less
12 than annually, on its progress in achieving improvements from the
13 county's baseline for the applicable measure. The department may
14 require a county that has not met its performance targets to submit
15 and implement a corrective action plan, as determined by the
16 director.

17 (k) Beginning in the 2011–12 fiscal year, and for each fiscal
18 year thereafter, funding and expenditures for programs and
19 activities required under this section shall be in accordance with
20 the requirements provided in Sections 30025 and 30026.5 of the
21 Government Code.

22 *SEC. 3. Section 10605.5 is added to the Welfare and Institutions*
23 *Code, to read:*

24 *10605.5. (a) A county child welfare agency that is an employer*
25 *of social workers engaged in providing child welfare services shall*
26 *not retaliate against a social worker if the social worker has*
27 *reasonable cause to believe that a policy, procedure, or practice*
28 *related to the provision of child welfare services endangers the*
29 *health or well-being of a child or children and the social worker*
30 *discloses this information to a government or law enforcement*
31 *agency, an appointed or elected official, or the public.*

32 *(b) Nothing in this section authorizes a social worker employed*
33 *by a county child welfare agency to disclose the identity of a child*
34 *or any portion of a case file.*

35 *(c) For purposes of this section, "county child welfare agency"*
36 *includes a county welfare department, child welfare department,*
37 *and any other county agency that employs social workers and is*
38 *responsible for the placement and supervision of children and*
39 *youth in foster care.*

1 *SEC. 4. Section 10850.4 of the Welfare and Institutions Code*
2 *is amended to read:*

3 10850.4. (a) Within five business days of learning that a child
4 fatality has occurred in the county and that there is a reasonable
5 suspicion that the fatality was caused by abuse or neglect, the
6 custodian of records for the county child welfare agency, upon
7 request, shall release the following information:

8 (1) The age and gender of the child.

9 (2) The date of death.

10 (3) Whether the child was in foster care or in the home of his
11 or her parent or guardian at the time of death.

12 (4) Whether an investigation is being conducted by a law
13 enforcement agency or the county child welfare agency.

14 (b) All cases in which abuse or neglect leads to a child's death
15 shall be subject to the disclosures required in subdivision (c). Abuse
16 or neglect is determined to have led to a child's death if one or
17 more of the following conditions are met:

18 (1) A county child protective services agency determines that
19 the abuse or neglect was substantiated.

20 (2) A law enforcement investigation concludes that abuse or
21 neglect occurred.

22 (3) A coroner or medical examiner concludes that the child who
23 died had suffered abuse or neglect.

24 (c) Upon completion of the child abuse or neglect investigation
25 into the child's death, as described in subdivision (b), the following
26 documents from the juvenile case file shall be released by the
27 custodian of records upon request, subject to the redactions set
28 forth in subdivision (e):

29 (1) All of the information in subdivision (a).

30 (2) For cases in which the child's death occurred while living
31 with a parent or guardian, all previous referrals of abuse or neglect
32 of the deceased child while living with that parent or guardian
33 shall be disclosed along with the following documents:

34 (A) The emergency response referral information form and the
35 emergency response notice of referral disposition form completed
36 by the county child welfare agency relating to the abuse or neglect
37 that caused the death of the child.

38 (B) Any cross reports completed by the county child welfare
39 agency to law enforcement relating to the deceased child.

1 (C) All risk and safety assessments completed by the county
2 child welfare services agency relating to the deceased child.

3 (D) All health care records of the deceased child, excluding
4 mental health records, related to the child's death and previous
5 injuries reflective of a pattern of abuse or neglect.

6 (E) Copies of police reports about the person against whom the
7 child abuse or neglect was substantiated.

8 (3) For cases in which the child's death occurred while the child
9 was in foster care, the following documents in addition to those
10 specified in paragraphs (1) and (2) generated while the child was
11 living in the foster care placement that was the placement at the
12 time of the child's death:

13 (A) Records pertaining to the foster parents' initial licensing
14 and renewals and type of license or licenses held, if in the case
15 file.

16 (B) All reported licensing violations, including notices of action,
17 if in the case file.

18 (C) Records of the training completed by the foster parents, if
19 in the case file.

20 (d) The documents listed in subdivision (c) shall be released to
21 the public by the custodian of records within 10 business days of
22 the request or the disposition of the investigation, whichever is
23 later.

24 (e) (1) Prior to releasing any document pursuant to subdivision
25 (c), the custodian of records shall redact the following information:

26 (A) The names, addresses, telephone numbers, ethnicity,
27 religion, or any other identifying information of any person or
28 institution, other than the county or the State Department of Social
29 Services, that is mentioned in the documents listed in paragraphs
30 (2) and (3) of subdivision (c).

31 (B) Any information that would, after consultation with the
32 district attorney, jeopardize a criminal investigation or proceeding.

33 (C) Any information that is privileged, confidential, or not
34 subject to disclosure pursuant to any other state or federal law.

35 (2) (A) The State Department of Social Services shall
36 promulgate a regulation listing the laws described in subparagraph
37 (C) of paragraph (1) and setting forth standards governing
38 redactions.

39 (B) Notwithstanding the rulemaking provisions of the
40 Administrative Procedure Act (Chapter 3.5 (commencing with

1 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
2 Code), until emergency regulations are filed with the Secretary of
3 State, the State Department of Social Services may implement the
4 changes made to Section 827 and this section at the 2007–08
5 Regular Session of the Legislature through all-county letters or
6 similar instructions from the director. The department shall adopt
7 as emergency regulations, as necessary to implement those changes,
8 no later than January 1, 2009.

9 (C) The adoption of regulations pursuant to this paragraph shall
10 be deemed to be an emergency necessary for the immediate
11 preservation of the public peace, health, safety, or general welfare.
12 The emergency regulations authorized by this section shall be
13 exempt from review by the Office of Administrative Law. The
14 emergency regulations authorized by this section shall be submitted
15 for filing with the Secretary of State and shall remain in effect for
16 no more than 180 days, by which time the final regulations shall
17 be adopted.

18 (f) Upon receiving a request for the documents listed in
19 subdivision (c), the custodian of records shall notify and provide
20 a copy of the request upon counsel for any child who is directly
21 or indirectly connected to the juvenile case file. If counsel for a
22 child, including the deceased child or any sibling of the deceased
23 child, objects to the release of any part of the documents listed in
24 paragraphs (2) and (3) of subdivision (c), they may petition the
25 juvenile court for relief to prevent the release of any document or
26 part of a document requested pursuant to paragraph (2) of
27 subdivision (a) of Section 827.

28 (g) Documents from the juvenile case file, other than those listed
29 in paragraphs (2) and (3) of subdivision (c), shall only be disclosed
30 upon an order by the juvenile court pursuant to Section 827.

31 (h) Once documents pursuant to this section have been released
32 by the custodian of records, the State Department of Social Services
33 ~~or Services~~, the county welfare department or ~~agency~~ *agency*, and
34 *any county child welfare social worker*, may comment on the case
35 within the scope of the release.

36 (i) Information released by a custodian of records consistent
37 with the requirements of this section does not require prior notice
38 to any other individual.

39 (j) Each county welfare department or agency shall notify the
40 State Department of Social Services of every child fatality that

1 occurred within its jurisdiction that was the result of child abuse
2 or neglect. Based on these notices and any other relevant
3 information in the State Department of Social Services' possession,
4 the department shall annually issue a report identifying the child
5 fatalities and any systemic issues or patterns revealed by the notices
6 and other relevant information. The State Department of Social
7 Services, after consultation with interested stakeholders, shall
8 provide instructions by an all-county letter regarding the procedure
9 for notification.

10 (k) For purposes of this section, the following definitions apply:

11 (1) "Child abuse or neglect" has the same meaning as defined
12 in Section 11165.6 of the Penal Code.

13 (2) "Custodian of records," for the purposes of this section and
14 paragraph (2) of subdivision (a) of Section 827, means the county
15 welfare department or agency.

16 (3) "Juvenile case files" or "case files" include any juvenile
17 court files, as defined in Rule 5.552 of the California Rules of
18 Court, and any county child welfare department or agency or State
19 Department of Social Services records regardless of whether they
20 are maintained electronically or in paper form.

21 (4) "Substantiated" has the same meaning as defined in Section
22 11165.12 of the Penal Code.

23 (l) A person disclosing juvenile case file information as required
24 by this section shall not be subject to suit in civil or criminal
25 proceedings for complying with the requirements of this section.

26 (m) This section shall apply only to deaths that occur on or after
27 January 1, 2008.

28 (n) Nothing in this section shall require a custodian of records
29 to retain documents beyond any date otherwise required by law.

30 (o) Nothing in this section shall be construed as requiring a
31 custodian of records to obtain documents not in the case file.

32 *SEC. 5. If the Commission on State Mandates determines that*
33 *this act contains costs mandated by the state, reimbursement to*
34 *local agencies and school districts for those costs shall be made*
35 *pursuant to Part 7 (commencing with Section 17500) of Division*
36 *4 of Title 2 of the Government Code.*

37 ~~SECTION 1. Section 11155.5 of the Welfare and Institutions~~
38 ~~Code is amended to read:~~

39 ~~11155.5. (a) In addition to the personal property permitted by~~
40 ~~other provisions of this part, a child declared a ward or dependent~~

1 child of the juvenile court, who is 16 years of age or older, or, on
2 and after January 1, 2012, a nonminor dependent, as defined in
3 subdivision (v) of Section 11400, who is participating in a
4 transitional independent living case plan pursuant to the federal
5 Fostering Connections to Success and Increasing Adoptions Act
6 of 2008 (Public Law 110-351), may retain resources with a
7 combined value of not more than ten thousand dollars (\$10,000);
8 consistent with Section 472(a) of the federal Social Security Act
9 (42 U.S.C. Sec. 672(a)) as contained in the federal Foster Care
10 Independence Act of 1999 (Public Law 106-169) and the child's
11 transitional independent living plan. Any cash savings shall be the
12 child's own money and shall be deposited by the child or on behalf
13 of the child in any bank or savings and loan institution whose
14 deposits are insured by the Federal Deposit Insurance Corporation
15 or the Federal Savings and Loan Insurance Corporation. The cash
16 savings shall be for the child's use for purposes directly related to
17 the child's or nonminor dependents' transitional independent living
18 case plan goals.

19 (b) The withdrawal of the savings by a child shall require the
20 written approval of the child's probation officer or social worker
21 and shall be directly related to the goal of emancipation. This
22 written approval is not required for withdrawals by a nonminor
23 dependent.